

APPEAL NO. 021712  
FILED AUGUST 14, 2002

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing (CCH) was held on June 17, 2002. The hearing officer resolved the dispute issues by deciding that the deceased employee (deceased) was not, for workers' compensation purposes, an employee of (employer) at the time of his death. In addition, the hearing officer determined that the deceased did not sustain a compensable injury on \_\_\_\_\_, resulting in his death. The appellant claimant beneficiaries (claimants) appealed on sufficiency grounds, and the respondent (carrier) responded, urging affirmance on the grounds that the claimant was not an employee at the time of his death and that there is not sufficient evidence of the cause/circumstance of his death to attribute the death to any work he was performing.

DECISION

Affirmed.

The hearing officer did not err in determining that the deceased was not an employee, for workers' compensation purposes, on the date of his death, and thus did not sustain a compensable injury resulting in his death on \_\_\_\_\_. The hearing officer determined that the claimants failed to prove that the deceased was performing per a temporary direction of his usual employer at the time of his death. The hearing officer believed that the deceased was performing personal work for an individual at the time of his death, whatever the cause.

The hearing officer is the sole judge of the weight and the credibility to be given the evidence. Section 410.165(a). The hearing officer resolved the disputed issues in the carrier's favor. While the claimants argued a different interpretation of the evidence, we conclude that the hearing officer's determinations are supported by the evidence, and they are not so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986); Texas Workers' Compensation Commission Appeal No. 001360, decided July 27, 2000. Nor do we find that the hearing officer abused his discretion by not keeping the record open after the CCH or by not assuming that the employer's failure to produce payroll records meant such records would have supported the claimants' case.

The hearing officer's decision and order are affirmed.

The true corporate name of the carrier is **TRAVELERS INDEMNITY COMPANY OF CONNECTICUT** and the name and address of its registered agent for service of process is

**CT CORPORATION SYSTEM  
350 NORTH ST. PAUL STREET  
DALLAS, TEXAS 75201.**

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Gary L. Kilgore  
Appeals Judge

CONCUR:

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Elaine M. Chaney  
Appeals Judge

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Philip F. O'Neill  
Appeals Judge